

REMARKS

Previously, Claims 11-24 were rejected under 35 U.S.C § 103(a) as being obvious over Jacobsen. (US Pub. No. 2002/0013540) in view of Moorman. (US 5,835,561). In response to argument made without amendment in the filing on 21 April 2009, those rejections were withdrawn and new grounds of rejection were presented.

Claims 11-24 now stand rejected under 35 U.S.C § 103 as obvious over Anderson (U.S. 6,394,952) in view of Binkert (2003/0197734) and/or Murphy (2003/0204248). In the instant Office Action, the rejection does not show how, even with a piecemeal reconstruction, the prior art combination could possibly result in the claimed subject matter. There is not shown to be a motivation for combining the references.

In reviewing the prior art combination it is noted (despite specific argument applied to claims 16-18 and 22-23) that the rejection of claims 11 and 20 appears to lack an explanation as to how one could possibly meet the terms of these claims based on the Examiner's combination. It is not at all apparent how the references are intended to be combined to render both of the independent claims obvious. There is no demonstration as to where, among the three references, one could possibly find the features of

... a control unit which controls the taking of the high energy image, the control unit supplied with an identification code of the adjuvant via an input device and adapted to set operating parameters of the image unit according to the identification code

as recited in claim 11, or

... controlling the taking of the high energy image by an imaging unit via a control unit;
inputting an identification code of the medical adjuvant into the control unit;
setting operating parameters of the imaging unit via the control unit according to the identification code ...

as recited in claim 20.

In this regard, it is urged that although the Anderson reference may disclose subject matter relating to symbology and bar codes, the office action also acknowledges that this is not in the context of controlling the taking of an image. Simply contending that Binkert concerns taking an image of a stent graft, and that Murphy concerns imaging of a stent does not compensate for the deficiencies of Anderson. Specifically, there is no disclosure in the Anderson reference of a **control unit** in the context of setting operating parameters for anything, let alone an imaging unit. Thus it is not seen how one can construct a *prima facie* case of obviousness using this combination.

In light of the above, Applicant submits that claims 11 and 20 are patentable and claims 12-19 and 21-24 are allowable at based both on their dependence from claims 11 and 20 and on their own merits. With the Examiner having examined the claims multiple times without being able to construct a valid art rejection, the claims must be allowed. There is no reason of record to deny allowance of all claims.

Conclusion

For the foregoing reasons, Applicant respectfully requests that the Examiner withdraw the rejections and timely pass the application to allowance. All correspondence should continue to be directed to our below-listed address. Please grant any extensions of time required to enter this paper. The Commissioner is hereby authorized to charge any appropriate fees due in connection with this paper or credit any overpayments to Deposit Account No. 19-2179.

Respectfully submitted,

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